

## Message Text

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53

ORIGIN EB-03

INFO OCT-01 ISO-00 /004 R

DRAFTED BY:EB:OT:TA:RAMEYER

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R 200620Z FEB 76

FM SECSTATE WASHDC

TO AMCONSUL HONG KONG

UNCLAS STATE 012207

FOLLOWING TELEGRAM FROM SECSTATE WASHDC DATED JANUARY 17, 1976  
SENT ALL DIPLOMATIC POSTS IS REPEATED TO YOU: QUOTE:

UNCLAS STATE 012207

E.O. 11652: N/A

TAGS: ETRD

SUBJECT: SUPREME COURT DECISION UPHOLDING RIGHT OF STATES  
AND LOCALITIES TO LEVY PROPERTY TAXES ON IMPORTS

1. ON JANUARY 15, THE SUPREME COURT MADE PUBLIC AN 8-0  
DECISION IN MICHELIN V. WAGE WITH LIMITED EFFECT OF UP-  
HOLDING AUTHORITY OF STATES AND LOCAL GOVERNMENTS TO TAX  
ON A NONDISCRIMINATORY BASIS VIA AD VALOREM PROPERTY TAXES  
IMPORTED GOODS REMOVED FROM THEIR ORIGINAL PACKAGES AND  
LOCATED IN WAREHOUSES.

2. THE CASE WAS BROUGHT BY GWINNETT COUNTY, GEORGIA,  
AGAINST AN IMPORTER/DEALER IN MICHELIN TIRES WHO RESISTED  
PAYMENT OF AN AD VALOREM PROPERTY TAX WHICH FELL ON  
WAREHOUSE INVENTORIES ON THE BASIS THAT SUCH A TAX COULD  
NOT BE CONSTITUTIONALLY LEVIED ON IMPORTED GOODS.

3. THE DECISION RECEIVED WIDE PRESS COVERAGE IN U.S. IN  
PART BECAUSE OF RARITY OF SUPREME COURT DECISIONS WHICH  
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REVERSE EARLIER DECISIONS AS WRONGLY DECIDED.

4. ANALYSIS OF DECISION IS BEING PREPARED BY LEGAL DEPARTMENT. POSTS MAY DRAW ON THE FOLLOWING IN RESPONDING TO ANY INQUIRIES PENDING FURTHER ASSESSMENT OF POTENTIAL

IMPACT OF DECISION.

A. THIS DECISION DOES NOT DISCRIMINATE AGAINST IMPORTS BUT RATHER PERMITS A STATE TO SUBJECT IMPORTED GOODS REMOVED FROM ORIGINAL PACKAGES TO TAXES LEVIED ON DOMESTICALLY PRODUCED GOODS. STATES STILL CANNOT CONSTITUTIONALLY IMPOSE A BORDER TAX FALLING ONLY OR UNEQUALLY ON IMPORTED GOODS, NOR IS SUCH TAXING POWER CONTRARY TO THE GATT OR OTHER INTERNATIONAL OBLIGATIONS.

B. A COMPLETE ANALYSIS OF DECISION HAS NOT YET BEEN COMPLETED BUT PRELIMINARY REPORTS INDICATE THAT IT IS UNLIKELY TO HAVE ANY SIGNIFICANT IMPACT ON TRADE. KISSINGER UNQUOTE INGERSOLL

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NNN

\*\*\* Current Handling Restrictions \*\*\* n/a

\*\*\* Current Classification \*\*\* UNCLASSIFIED

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
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**Current Classification:** UNCLASSIFIED  
**Concepts:** COURT DECISIONS, IMPORTS, PROVINCIAL GOVERNMENT, SUPREME COURT, TAXES  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 17 JAN 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Authority:** n/a  
**Disposition Case Number:** n/a  
**Disposition Comment:**  
**Disposition Date:** 01 JAN 1960  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
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**To:** ALL POSTS  
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